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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/927,925	08/10/2001	Koji Mizobuchi	01480/LH	6043
1933	7590	01/12/2006	EXAMINER	
FRISHAUF, HOLTZ, GOODMAN & CHICK, PC			QUIETT, CARRAMAH J	
220 Fifth Avenue			ART UNIT	PAPER NUMBER
16TH Floor			2612	
NEW YORK, NY 10001-7708				

DATE MAILED: 01/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/927,925	MIZOBUCHI, KOJI
	<b>Examiner</b>	<b>Art Unit</b>
	Carramah J. Quiett	2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 26 October 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-3 and 5-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 6 is/are allowed.
- 6) Claim(s) 1-3,5 and 7-9 is/are rejected.
- 7) Claim(s) 6 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 23 April 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____ .  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/26/05</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____ .                                  |

**DETAILED ACTION**

***Response to Amendment***

1. The amendment(s), filed on 10/17/2005, have been entered and made of record. Claims 1-3 and 5-9 are pending.

***Priority***

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Specification***

3. The amendment filed on 10/26/2005 to the title of the invention is acceptable.

***Claim Objections***

4. The amendments filed on 10/17/2005 to the objections of claims 7 and 12 are acceptable.

***Response to Arguments***

5. Applicant's arguments filed 10/17/2005 have been fully considered but they are not persuasive.

For claim 1, the Applicant asserts that Ejima at al. does not disclose, teach or suggest displaying data relating to the reproduction status of audio data. The Examiner respectfully disagrees. On page 5, paragraph 75, Ejima teaches that the LCD has a data set number, recording date and time, thumbnail image, audio mark and audio time, which are displayed as symbols. The data set number, audio mark and time inherently corresponds to character data representing the reproduction status of audio data. Please see figure 9.

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For claim 2, the Applicant asserts that Suzuki et al. does not disclose, teach, or suggest displaying data representing a reproduction status of the audio data. The Applicant also asserts that Suzuki et al. does not disclose, teach, or suggest control means for causing the display means to displaying data representing a reproduction status of the audio data, when the instruction means instructs the display means not to display the image data. The Examiner respectfully disagrees. On pages 6-7, paragraphs 101, 103-105, Suzuki teaches that a user can select the setting mode that allows one to edit the sound (audio) effects. The sound effects are displayed on the LCD in a category for playback and a category for recording. In other words, the playback category is the reproduction status of audio data where a user can select from characters [A], [B], or [R].

For claim 3, the Applicant asserts that Peng does not disclose, teach, or suggest displaying reproduction status data of audio data being produced. The Applicant also asserts that Suzuki et al. does not disclose, teach, or suggest control means for causing the display means to displaying data representing a reproduction status of the audio data after displaying the image data for a predetermined time, when the instruction means instructs the display means not to display the image data. The Examiner respectfully disagrees. Suzuki was used to teach the control means causes the display means to display the reproduction status of the audio data when the instruction means instructs the display means to display the image data. On pages 6-7, paragraphs 101, 103-105, Suzuki teaches that a user can select the setting mode that allows one to edit the sound (audio) effects. The sound effects are displayed on the LCD in a category for playback and a category for recording. In other words, the playback category is the reproduction status of audio data where a user can select from characters [A], [B], or [R]. Peng was used to

teach that the control means (fig. 2, ref. 32, 36) causes the display means to display the reproduction status of the audio data after displaying the image data for a predetermined time. Please see fig. 11. In col. 14, lines 34 -44, Peng teaches that the display of the images continues until playback of the audio file ends. Based on that, the display of the images inherently indicates the reproduction status of audio data.

For claim 5, the Applicant asserts that Ejima et al. nor Peng do not disclose, teach, or suggests displaying character data representing a reproduction status of audio data while the audio data is being produced. The Examiner respectfully disagrees. On page 5, paragraph 75, Ejima teaches that the LCD has a data set number, recording date and time, thumbnail image, audio mark and audio time, which are displayed as symbols. The data set number, audio mark and time inherently corresponds to character data representing the reproduction status of audio data. Please see figure 9. Then on page 4, paragraph 60, Ejima teaches that when the data set is reproduced, it is possible to display the photographic image and the line drawing simultaneously on the LCD while the sound corresponding to the audio data is output by the speaker.

For claim 7, the Applicant asserts that Ejima et al. does not disclose recording audio data while image data is being recorded. The Applicant also asserts that Ejima et al. does not disclose, teach, or suggest imaging means for recording image data in association with a time elapsed during recording of the audio data, while image data is recording the audio data. The Examiner respectfully disagrees. On page 5, paragraph 72, Ejima explains that the audio data accompanying the image data was recorded. Ejima explains this process further in paragraphs 73 and 74. Also please see fig. 7 and read pages 4-5, paragraphs 62-71.

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For claim 8, the Applicant asserts that Ejima et al. does not disclose character data representing a reproduction status of the audio data nor image data associated with a time elapsed during recording of the audio data. The Examiner respectfully disagrees. On page 5, paragraph 75, Ejima teaches that the LCD has a data set number, recording date and time, thumbnail image, audio mark and audio time, which are displayed as symbols. The data set number, audio mark and time inherently corresponds to character data representing the reproduction status of audio data. Please see figure 9. Also on page 5, paragraph 72, Ejima explains that the audio data accompanying the image data was recorded. Ejima explains this process further in paragraphs 73 and 74. Also please see fig. 7 and read pages 1, 4-5, paragraphs 7, 62-71.

For claim 9, the Applicant asserts that Ejima et al. does not disclose displaying image data for a predetermined time every time the time elapsed during the recording of the audio data is detected. The Examiner respectfully disagrees. Please see fig. 7. On page 5, paragraph 67, Ejima explains that if the audio recording button is depressed, audio recording process is performed. Then, on page 5, paragraphs 73-75, he explains the audio/image processing in more detail. Particularly, in paragraph 75, Ejima teaches that the LCD has a data set number, recording date and time, thumbnail image, audio mark and audio time, which are displayed as symbols. The data set number, audio mark and time inherently corresponds to character data representing the reproduction status of audio data. Please see figure 9. Based on the explanation of this process it is inherent that the image data is displayed for a predetermined time every time the time elapsed during the recording of the audio data is detected.

***Claim Rejections - 35 USC § 102***

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
7. **Claims 1 and 7-9** are rejected under 35 U.S.C. 102(e) as being anticipated by Ejima et al. (U.S. Patent Application Pub. #2002/0021262).

As for **claim 1**, Ejima discloses a data recording and reproducing apparatus (figs. 1-6) having a function of reproducing audio data and image data associated with the audio data (page 1, paragraph 7), said apparatus comprising:

audio data reproducing means (fig. 2, ref. 7B) for reproducing audio data (page 2, paragraph 35); and

display means (figs. 2/9, ref. 6) for displaying, while the audio data reproducing means is reproducing the audio data (page 4, paragraph 60), first information (fig. 9, Audio Mark/Time) including character data (Audio Time) representing reproduction status of the audio data, (page 5, paragraph 75) and for displaying second information (fig. 9, Recording Date/Data Set Number) including image data (thumbnail image) associated with the audio data being reproduced (page 5, paragraph 75).

As for **claim 7**, Ejima discloses a data recording and reproducing apparatus (figs. 1-6) having a function of recording audio data and image data associated with the audio data (page 1, paragraph 7), said apparatus comprising:

audio data recording means (fig. 4, ref. 12) for recording audio data (page 2, paragraph 39); and

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imaging means (fig. 4, ref. 10) for recording image data (page 2, paragraphs 30-31) in association with a time elapsed during recording of the audio data, while the audio data recording means is recording the audio data (page 5, paragraphs 72-74). Also please see fig. 7 and read pages 4-5, paragraphs 62-71.

As for **claim 8**, Ejima discloses a data recording and reproducing apparatus (figs. 1-6) having a function of recording audio data and image data associated with the audio data (page 1, paragraph 7), said apparatus comprising:

audio data reproducing means (fig. 2, ref. 7B) for reproducing audio data (page 2, paragraph 35); and

display means (figs. 2/9, ref. 6) for displaying, while the audio data reproducing means is reproducing the audio data (page 4, paragraph 60), first information (fig. 9, Audio Mark/Time) including character data (Audio Time) representing reproduction status of the audio data (page 5, paragraph 75) and for displaying second information (fig. 9, Recording Date/Data Set Number) including image data (thumbnail image) associated with a time elapsed during recording of the audio data that the audio data reproducing means is reproducing (page 5, paragraph 75).

For **claim 9**, Ejima discloses the apparatus, wherein every time the time elapsed during the recording of the audio data is detected (fig. 7; pages 4-5, paragraphs 65-69), the display means displays the image data for a predetermined time (figs 8/9; page 5, paragraphs 73-75) and then displays the character data representing the reproduction status of the audio data (figs 8/9; page 5, paragraphs 73-75). In fig. 7, Ejima teaches a process where audio data has been recorded in Steps S10-212. This process detects whether or not the preset time interval has elapsed after resetting the time and sensing the status of the audio button. Then, Ejima explains how this

process stores and displays the image/audio data. As shown in fig. 9, data set number 2 displays image data for a preset time interval and then, the time as well as the duration of the audio data is displayed at data set number 3. Please read page 5, paragraphs 74-75.

8. **Claim 2** is rejected under 35 U.S.C. 102(e) as being anticipated by Suzuki et al. (U.S. Patent Application Pub. #2002/0057351).

As for **claim 2**, Suzuki discloses a data recording and reproducing apparatus (figs. 1-4) comprising:

audio data reproducing means (fig. 2/fig. 4, refs. 5 and 36) for reproducing selected audio data (page 2, paragraph 35; page 3, paragraph 57); and

display means (fig. 4, ref. 6) for displaying at least image data associated with the selected audio data (page 3, paragraph 56);

instruction means (fig. 2, ref. 7; fig. 4, refs. 6A/B, 34, 35, and 41) for instructing whether to display the image data (page 2, paragraphs 35-38) with the display means when the audio data reproducing means reproduces the audio data (fig. 5, paragraphs 84-89);

control means (fig. 11, 6B) for causing the display means to display data representing reproduction status of the audio data (pages 6-7, paragraphs 101, 103-105), when the instruction means instructs the display means not to display the image data (figs. 12, 13, and 15). When the pen selects sound effects via the setting mode, it is inherent that the pen instructs the display not to display the image data. As shown in fig. 15, the LCD displays audio data as a result of the setting selection from the pen.

***Claim Rejections - 35 USC § 103***

9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

10. **Claim 3** is rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al. (U.S. Patent Application Pub. #2002/0057351) in view of Peng (U.S. Pat. #6,774,939).

For **claim 3**, Suzuki discloses an apparatus, wherein the control means causes the display means to display the reproduction status of the audio data when the instruction means instructs the display means to display the image data (pages 6-7, paragraphs 101, 103-105). However, Suzuki does not expressly teach that the control means causes the display means to display the reproduction status of the audio data after displaying the image data for a predetermined time.

In the same field of endeavor, Peng discloses an apparatus (figs. 1-3, ref. 100), wherein the control means (fig. 2, ref. 32, 36) causes the display means to display the reproduction status of the audio data after displaying the image data for a predetermined time. Please see fig. 11, and read col. 14, lines 34-44. In light of the teaching of Peng, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Suzuki's apparatus with a control means (fig. 2, ref. 32, 36) causes the display means to display the reproduction status of the audio data after displaying the image data for a predetermined time, when the instruction means instructs the display means to display the image data in order provide a user with the option of capturing several image (or continuous image capture) at the same time as recording audio (Peng, col. 6, lines 50-53).

11. **Claims 5** is rejected under 35 U.S.C. 103(a) as being unpatentable over Ejima et al. (U.S. Patent Application Pub. #2002/0021262) in view of Peng (U.S. Pat. #6,774,939).

As for **claim 5**, Ejima discloses a data recording and reproducing apparatus (figs. 1-6) capable of reproducing audio data and image data associated with a part of the audio data (page 1, paragraph 7), said apparatus comprising:

display means (figs. 2/9, ref. 6) for displaying an operating status of the apparatus (pages 2, paragraphs 32-35) and

control means (fig. 6, refs. 6A, 7 and 39) for causing the display means (figs. 2/9, ref. 6) to display first information (fig. 9, Audio Mark/Time) including character data (Audio Time) representing a reproduction status of the audio data (page 5, paragraph 75) while the audio data is being reproduced (page 4, paragraph 60), and for displaying second information (fig. 9, Recording Date/Data Set Number) including the image data associated with said part of the audio data (page 5, paragraph 75), when said part of the audio data is reproduced. Additionally, he teaches that the audio data accompanying the image data was recorded in fig. 7 (page 5, paragraph 72). However, Ejima does not expressly disclose reproducing audio data and image data associated with that part of the audio data which is recorded *the moment* the image data is generated.

In the same field of endeavor, Peng discloses a data recording and reproducing apparatus (figs. 1-3, ref. 100) capable of reproducing audio data and image data associated with a part of the audio data (col. 7, lines 11-21) which is recorded at a moment when the image data is generated (col. 6, lines 50-53). In light of the teaching of Peng, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ejima's apparatus

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with audio data which is recorded the moment the image data is generated in order provide a user with the option of capturing several image (or continuous image capture) at the same time as recording audio (Peng, col. 6, lines 50-53).

***Allowable Subject Matter***

12. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

13. The following is a statement of reasons for the indication of allowable subject matter:

**Claim 6** is allowed because the prior art does not teach or fairly suggest the apparatus according to claim 5, wherein every time said part of the audio data is reproduced, said control means causes *the display means to display the second information for a predetermined time and then to display the first information upon lapse of the predetermined time.*

***Conclusion***

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carramah J. Quiett whose telephone number is (571) 272-7316. The examiner can normally be reached on 8:00-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ngoc Yen Vu can be reached on (571) 272-7320. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CJQ  
January 6, 2006



NGOC-YEN VU  
PRIMARY EXAMINER